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Laurie E. Gathman

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EXAMINER

QUELLETTE, JONATHAN P

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GROUP 3600

**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 09/971,141
Filing Date: October 04, 2001
Appellant(s): GATHMAN ET AL.

Larry Liberchuk
Reg. No. 40,352
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed 10/12/2006 appealing from the Office action mailed 11/2/2005.

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of the claims contained in the brief is correct.

(4) Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

US Application Publications: Brown et al. (US 2003/0061303 A1) and Poor et al. (US 2004/0263494 A1).

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. **Claims 1-4, 9-16, and 18-21 are rejected under 35 U.S.C. 102(e) as being anticipated by Brown et al. (US 2003/0061303 A1).**
3. As per **independent Claim 1**, Brown discloses in a public facility in communication with at least one patron through a virtual ticket device (VTD) interface (electronic receiver/device, Para 0037), a method of doing business, comprising: detecting that

a VTD is within communication range of the VTD interface; determining the identity (unique ID) and location (GPS location) of the detected VTD; and selectively providing information to the identified VTD on the basis of the determined identity and location (Para 0013, 0017-0018, 0064).

4. As per **independent Claim 12**, Brown discloses in a public facility including a transceiver for communicating with virtual ticket devices (electronic receiver/device, Para 0037), said facility having at least one status collector, a method of doing business, comprising: providing a database in communication with the status collector for storing collected status information; receiving status information for storage in the database (Para 0071); receiving a request for status information; and transmitting the requested status information to at least one VTD (Para 0084-0086).
5. As per **independent Claim 18**, Brown discloses a public-facility information guide (electronic receiver/device, Para 0037), comprising: an electronic ticket control system for processing public-facility information in order to formulate information messages; at least one access point in communication with the electronic ticket control system, the access point being capable of communicating with a public-facility patron virtual ticket device; and at least one status collector in communication with the electronic ticket control system for collecting and reporting status information (Park attraction example, Para 0071-0079).
6. As per **independent Claim 21**, Brown discloses an electronic ticket (electronic receiver/device, Para 0037) control system, comprising: a message database for storing information-message data; a control program for directing a processor of the

electronic ticket control system to formulate an information message using the information message data, wherein the information messages are formulated in response to information requests (Para 0084-0086); an access point coupled to transmit information messages formulated by the processor to a public-facility patron virtual ticket device; and a status database for storing status information collected by a status collector, wherein the processor uses the stored status information in formulating information messages (Para 0071-0079).

(10) Response to Argument

1. As per Claims 1-21 (all groupings contain same argument), the Appellant has made the argument that the prior art of Brown fails to teach or suggest a virtual ticket device (VTD). The Appellant further describes a virtual ticket device as a device that must be capable of receiving a virtual electronic ticket.
2. However, Brown discloses handheld electronic devices, with the capability of downloading electronic content (Para 0037, 0064). Therefore, by the Appellant's definition, the electronic devices (PIMs, Personal Information Managers) would be considered a VTD, as they would be *capable* of downloading a virtual electronic ticket (electronic content). Furthermore, the Appellant fails to claim the actual act of receiving ticket information at the VTD, or using the VTD to gain access to events/locations (actual use as a ticket). Therefore, calling the electronic device a "VTD" is nothing more than a description of the device's possible capabilities.

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3. Finally, the Appellant makes the argument that because Brown does not disclose a "VTD", the system could not complete the remaining elements.
4. However, based on the arguments above stating that Brown does disclose an equivalent device to a VTD, the arguments are moot.

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the Examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

Jonathan Ouellette

December 29, 2006

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